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17 UNITED STATES BANKRUPTCY COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

19 In re

Case No. 23-30564

20 THE ROMAN CATHOLIC ARCHBISHOP
OF SAN FRANCISCO,

Chapter 11

21 Debtor and
22 Debtor in Possession.

**DEBTOR'S MOTION FOR EXTENSION OF
DEADLINE FOR REMOVAL OF CIVIL
ACTIONS [28 U.S.C. § 1452 AND
BANKRUPTCY RULE 9027]**

23 Date: October 26, 2023

24 Time: 1:30 p.m.

25 Location: Via ZoomGov

Judge: Hon. Dennis Montali

26
27
28 Case No. 23-30564

1 The Roman Catholic Archbishop of San Francisco (“RCASF” or “Debtor”), the Debtor and
2 debtor in possession in the above-captioned chapter 11 case (the “Bankruptcy Case”), hereby files
3 this Motion for Extension of Deadline for Removal of Civil Actions (the “Motion”), pursuant to 28
4 U.S.C. § 1452 of title 11 of the United States Code (the “Bankruptcy Code”) and Bankruptcy Rules
5 9027 and 9006 in the above-captioned chapter 11 case (the “Chapter 11 Case”), extending the
6 deadline by which the Debtor may file notices of removal under Bankruptcy Rule 9027(a) (the
7 “Removal Deadline”) by 185 days from November 20, 2023, to May 23, 2024. In support of this
8 Motion, the Debtor relies upon the *Declaration of Joseph J. Passarello in Support of Chapter 11*
9 *Petition and Debtor’s Emergency Motions* [Dkt 14] (“Passarello Background Decl.”), and the
10 *Declaration of Paul E. Gaspari in Support of Chapter 11 Petition and Debtor’s Emergency Motions*
11 [Dkt 15] (“Gaspari Decl.”) all exhibits filed in support thereof. A copy of the proposed order is
12 attached hereto as ***Exhibit 1***. In further support of this Motion, Debtor relies upon the following
13 points and authorities:

14 **JURISDICTION AND VENUE**

15 1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and
16 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The statutory basis for the relief
17 requested herein are 28 U.S.C. § 1452 and Bankruptcy Rules 9006(b) and 9027.

18 2. Venue is proper before this Court, pursuant to 28 U.S.C. §§ 1408 and 1409.

19 **BACKGROUND**

20 3. On August 21, 2023 (the “Petition Date”), the Debtor commenced with the Court a
21 voluntary case under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its
22 businesses and manage its properties as debtor in possession pursuant to sections 1107(a) and 1108
23 of the Bankruptcy Code. No trustee or examiner has been appointed in the Bankruptcy Case. On
24 September 1, 2023, the Office of the United States Trustee for the Northern District of California
25 appointed a statutory committee of unsecured creditors (“Committee”) in this case pursuant to
26 section 1102 of the Bankruptcy Code (Dkt 58).

27 4. The RCASF filed this Bankruptcy Case to reorganize its financial affairs pursuant
28 to a plan of reorganization that will, among other things, fairly, justly, and equitably compensate

1 survivors of sexual abuse by clergy or others associated with the RCASF and bring healing to
2 survivors, parishioners and others affected by past acts of sexual abuse. The RCASF requires the
3 Bankruptcy Court's protection and the protection of the bankruptcy laws to make fair and equitable
4 payment on all of the claims against it, including the claims by survivors of abuse, trade creditors,
5 and others, while continuing its ministries and support it offers to Catholic parishes and
6 communities.

7
RELIEF REQUESTED

8 5. By this Motion, the Debtor requests entry of an order extending the current Removal
9 Deadline of November 20, 2023,¹ by 185 days, through and including May 23, 2024, for all matters
10 encompassed by Bankruptcy Rule 9027(a)(2) and (3), without prejudice to further extensions.

11
BASIS FOR RELIEF REQUESTED

12 6. As noted in the Gaspari Decl. and Passarello Background Decl., the Debtor is
13 informed and believes that approximately 537 complaints have been filed in the Joint Coordinated
14 Proceeding No. 5108 pending in Alameda Superior Court, although the RCASF may not have been
15 served with all of them yet. The Debtor has filed its Schedules and Statement of Financial Affairs
16 identifying each of the actions of which the Debtor was aware as of the initial schedules filing date
17 of September 21, 2023. *See* Dkts 152 and 153. The Debtor may become aware of other complaints
18 hereafter (such actions, together with any other civil action to which the Debtor is, or may become,
19 a party, collectively, the "Civil Actions").

20 7. The Debtor has consulted with the Committee regarding the filing of this Motion.
21 The Debtor will provide notice of this Motion to the attorneys for each of the litigation
22 counterparties to the Civil Actions (the "Litigation Counterparties") and will file an affidavit of
23 service reflecting such service.

24 8. The RCASF intends to negotiate a plan of reorganization as early as possible which
25 will: (a) allocate the RCASF's remaining assets fairly among the legitimate competing interests for

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27 ¹ Federal Rule of Bankruptcy Procedure provides that the current deadline for removal is within 90
28 days after the Petition Date on August 21, 2023. That date falls on Sunday, November 19, 2023,
and, therefore, the current deadline is Monday, November 20, 2023.

1 such property; (b) provide a process to fully, fairly and expeditiously liquidate claims of abuse
2 survivors; and (c) permit the RCASF to carry on the RCASF's essential ministries and services so
3 the RCASF can continue to meet the needs of the Non-Debtor Catholic Entities, parishioners, and
4 others who rely on the RCASF's ministry, education, and charitable outreach.

5 9. There have been about 30 or so Catholic Diocese or Archdiocese chapter 11 cases
6 over the years. Many of those cases follow a similar path involving global mediation with all
7 parties in interest including the Debtor, the Committee, insurance companies and relevant related
8 and co-defendant parties.

9 10. Several steps typically occur prior to beginning mediation. These include
10 concluding all "first day" motions; exchanging information among the Debtor, Committee,
11 insurers, and related parties; the Debtor and the Committee working together on the abuse claims
12 noticing and filing procedures and deadlines which will be presented to the Court for approval;
13 determining a course to stay the litigation against co-defendants, additional insured parties, and
14 potential contributors to a reorganization plan settlement; selection and appointment of an unknown
15 claims representative; selection of a mediator; and mediation. The results of the mediation form
16 the basis for the chapter 11 plan of reorganization.

17 11. Since the Petition Date, the Debtor has worked diligently on these matters, including
18 the filing and adjudication to interim orders of six "first day" motions, employment of the
19 professionals needed to administer this Chapter 11 case, and engaging with counsel to the
20 Committee on the process of moving forward toward mediation. The Debtor endeavors to work
21 with the Committee to get to global mediation as soon as possible and will begin discussions for
22 doing so with the Committee as soon as practicable.

23 12. Section 1452 of the Judicial Code and Bankruptcy Rule 9027 govern the removal of
24 pending civil actions related to chapter 11 cases, and Bankruptcy Rule 9027 sets forth the time
25 periods for filing notices to remove claims or causes of action. Bankruptcy Rule 9006(b)(1) permits
26 the Court to extend the period to remove actions provided by Bankruptcy Rule 9027 "for cause
27 shown . . . if the request therefor is made before the expiration of the period originally prescribed."

28 13. Specifically, section 1452(a) provides:

1 A party may remove any claim or cause of action in a civil action other than a
2 proceeding before the United States Tax Court or a civil action by a governmental
3 unit to enforce such governmental unit's police or regulatory power, to the district
4 court for the district where such civil action is pending, if such district court has
5 jurisdiction of such claim or cause of action under section 1334 of this title.

6 14. Bankruptcy Rule 9027(a)(2) provides, in relevant part:

7 If the claim or cause of action in a civil action is pending when a case under the
8 Code is commenced, a notice of removal may be filed only within the longest of (A)
9 90 days after the order for relief in the case under the Code, (B) 30 days after entry
10 of an order terminating a stay, if the claim or cause of action in a civil action has
11 been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a
12 chapter 11 reorganization case but not later than 180 days after the order for relief.

13 15. With respect to postpetition actions, Bankruptcy Rule 9027(a)(3) provides that a
14 notice of removal may be filed:

15 only within the shorter of (A) 30 days after receipt, through service or otherwise, of
16 a copy of the initial pleading setting forth the claim or cause of action sought to be
17 removed, or (B) 30 days after receipt of the summons if the initial pleading has been
18 filed with the court but not served with the summons.

19 16. Under Bankruptcy Rule 9006(b), the Court may extend unexpired time periods,
20 such as the Debtor's removal period, with or without notice:

21 [W]hen an act is required or allowed to be done at or within a specified period by
22 these rules or by a notice given thereunder or by order of court, the court for cause
23 shown may at any time in its discretion . . . with or without motion or notice order
24 the period enlarged if the request therefor is made before the expiration of the period
25 originally prescribed or as extended by a previous order.

26 Fed. R. Bankr. P. 9006(b).

27 17. It is well settled bankruptcy courts may extend, for cause, the removal period
28 provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. *See Pacor, Inc. v. Higgins*, 743 F.2d
984, 996 n.17 (3d Cir. 1984) (holding the bankruptcy court's power to grant an extension of the
removal period pursuant to Bankruptcy Rule 9006(b) is "clear") *overruled on other grounds by*
Things Remembered, Inc. v. Petrarca, 516 U.S. 124 (1995); *see also Caperton v. A.T. Massey Coal*
Co., Inc., 251 B.R. 322, 325 (S.D. W.Va. 2000) (Bankruptcy Rule 9006 provides authority to
enlarge time periods for removing actions under Bankruptcy Rule 9027); *Raff v. Gordon*, 58 B.R.
988, 990 (E.D. Pa. 1986) (an expansion of time to file notices of removal is authorized under the

1 Bankruptcy Rules); *In re Jandous Elec. Constr. Corp.*, 106 B.R. 48, 49 (Bankr. S.D.N.Y. 1989)
2 (period in which to file motion for removal may be expanded pursuant to Bankruptcy Rule 9006);
3 *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (United States Supreme
4 Court intended to give bankruptcy judges the power to enlarge the filing periods under Bankruptcy
5 Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)).

6 18. As noted above, the Debtor is party to numerous Civil Actions. Since the filing of
7 this Chapter 11 Case, the Debtor has focused a substantial amount of its time on issues related to
8 its operations, the preparation of its schedules and statement of financial affairs, on addressing all
9 of the issues related to transitioning its affairs to acting as a debtor in possession, and other issues
10 necessary to move toward mediation. Consequently, the Debtor believes it is premature to decide
11 whether it is appropriate to file notices of removal with respect to the Civil Actions and that the
12 interests of all parties are served by extending the deadline. Further, removing the large number of
13 pending Civil Actions prior to a determination of whether removal will benefit the parties is an
14 enormous task that should only be taken after careful consideration and necessity.

15 19. There is cause to extend the time prescribed under Bankruptcy Rule 9027(a),
16 through and including May 23, 2024, to protect the Debtor's right to remove any Civil Actions it
17 may deem appropriate. The extension sought will afford the Debtor a reasonable period to
18 determine whether to remove any pending Civil Actions and will ensure that the Debtor does not
19 forfeit valuable rights under 28 U.S.C. 1452 and Bankruptcy Rule 9027 prematurely. Further, the
20 rights of the Debtor's adversaries will not be prejudiced by such an extension because any party to
21 an action that is removed may seek to have it remanded to the state court from which it came
22 pursuant to 28 U.S.C. § 1452(b). Moreover, the extension will promote the efficient administration
23 of the estate given the extraordinary circumstances of hundreds of pending lawsuits, and the effort
24 to achieve a consensual plan.

25 20. The Debtor further requests that the order approving this Motion be without
26 prejudice to (a) any position the Debtor may take on whether section 362 of the Bankruptcy Code
27 stays any given Civil Action pending against the Debtor, and (b) the right of the Debtor to seek
28 further extensions of the Removal Deadline.

1 21. For the reasons stated above, the Debtor submits that the relief requested herein is
2 appropriate and in its best interests, as well as in the best interests of its estate and creditors. Other
3 courts have routinely granted similar requests by debtors for extensions of the removal period. *See,*
4 *e.g., In re The Roman Catholic Bishop of Santa Rosa*, Case No. 23-10113 (Bankr. N.D. CA June
5 8, 2023) [Dkt. 242] (extending deadline by 180 days); *In re The Roman Catholic Bishop of Oakland*,
6 Case No. 23-40523 (Bankr. N.D. CA August 22, 2023) [Dkt. 387] (extending deadline by 182
7 days); *In re PG&E Corporation and Pacific Gas and Electric Company*, Case No. 19-bk-30088-
8 DM (Bankr. N.D. Cal May 29, 2019) [Docket No. 2278] (extending deadline by 182 days); *Roman*
9 *Catholic Diocese of Harrisburg*, Case No. 1:20-bk-000599 (Bankr. M.D. Penn.) January 31, 2023
10 [Dkt. No. 1508] (10th extension of removal deadline); *The Roman Catholic Diocese of Rockville*
11 *Centre*, Case No. 20-bk-00599 (Bankr. M.D. Pa. Sept. 18, 2020) [Dkt. 437]; *In re On Marine Sers.*
12 *Co. LLC*, Case No. 20-20007 (Bankr. W.D. Pa. March 17, 2020) [Dkt. No. 107] (extending removal
13 deadline by 120 days); *In re Wordsworth Acad., et al.*, Case No. 17-14463 (Bankr. E.D. Pa. Oct.
14 18, 2017) [Dkt. No. 359] (extending removal deadline by 125 days); *In re Chaparral Energy, Inc.*,
15 Case No. 16-11144 (Bankr. D. Del. Aug. 15, 2016) [Dkt. No. 406] (extending removal deadline by
16 120 days); *In re Cal Dive Int'l.*, Case No. 15-10458 (Bankr. D. Del. June 18, 2015) [Dkt. No. 494]
17 (same); *In re QCE Fin. LLC*, Case No. 14-10543 (Bankr. D. Del. Feb. 24, 2015) [Dkt. No. 630]
18 (same); *In re Energy Future Holdings Corp.*, Case No. 14-10979 (Bankr. D. Del. July 16, 2014)
19 [Dkt. No. 1590] (extending removal deadline by 180 days); *In re Caribbean Petroleum Corp.*, Case
20 No. 10-12553 (Bankr. D. Del. June 2, 2014) [Dkt. No. 2086] (extending deadline by 120 days).

21 WHEREFORE, for the reasons set forth above, the Debtor respectfully requests that this
22 Court enter an order, in substantially the form attached hereto as Exhibit 1, granting the relief

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1 requested herein and such other and further relief as the Court may deem just and proper.

2 Dated: October 5, 2023

FELDERSTEIN FITZGERALD WILLOUGHBY
PASCUZZI & RIOS LLP

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4

By: /s/ Paul J. Pascuzzi
PAUL J. PASCUZZI
JASON E. RIOS
THOMAS R. PHINNEY

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Attorneys for The Roman Catholic Archbishop of
San Francisco

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9 Dated: October 5, 2023

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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By: /s/ Ori Katz
ORI KATZ
ALAN H. MARTIN

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Attorneys for The Roman Catholic Archbishop of
San Francisco

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1 **Exhibit 1**

2 **[Proposed Order Extending Time for Removal]**

3
4 UNITED STATES BANKRUPTCY COURT
5 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION
6

7 In re

8 THE ROMAN CATHOLIC ARCHBISHOP
9 OF SAN FRANCISCO,

10 Debtor and
11 Debtor in Possession.

Case No. 23-30564

Chapter 11

**ORDER GRANTING DEBTOR'S MOTION
FOR EXTENSION OF DEADLINE FOR
REMOVAL OF CIVIL ACTIONS [28 U.S.C.
§ 1452 AND BANKRUPTCY RULE 9027]**

12 Date: October 26, 2023

13 Time: 1:30 p.m.

14 Location: Via ZoomGov

15 Judge: Hon. Dennis Montali

16 Upon consideration of the motion (the "Motion") for entry of an order (this "Order")
17 extending the Removal Deadline by 180 days, without prejudice to the Debtor's right to seek further
18 extensions of the same, all as more fully set forth in the Motion; and the Court having found that the
19 Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; venue is proper in
20 this district pursuant to 28 U.S.C. §§ 1408 and 1409; this is a core proceeding pursuant to 28 U.S.C.
21 § 157(b); and the Court having found that the relief requested in the Motion is in the best interests
22 of the Debtor's estate, its creditors, and other parties in interest; and it appearing that notice of the
23 Motion and the opportunity for a hearing on the Motion was appropriate under the particular
24 circumstances; and good cause appearing therefor;

25 **IT IS HEREBY ORDERED THAT:**

- 26 1. The Motion is hereby GRANTED as set forth herein.
- 27 2. Pursuant to 28 U.S.C. § 1452 and Bankruptcy Rules 9027 and 9006, the deadline to
- 28 remove claims or causes of action in a civil proceeding is extended 185 days from November 20,

1 2023, through and including May 23, 2024.

2 3. The Debtor is authorized to take all actions necessary to effectuate the relief granted
3 in this Order in accordance with the Motion.

4 4. This Order is without prejudice to (a) any position the Debtor may take on whether
5 section 362 of the Bankruptcy Code stays any litigation pending against the Debtor, or (b) the
6 Debtor's right to seek further extensions of the Removal Deadline.

7 5. The Court shall retain jurisdiction over any and all matters arising from the
8 interpretation or implementation of this Order.

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END OF ORDER

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Court Service List

No service required.